

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1053 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHEHUBHAI PUNJABHAI KOLI PATEL

Versus

SAJANBEN FULABHAI KOLI PATEL

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Appearance:

MR JV MEHTA for Petitioners

MR MC BHATT for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/11/98

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. Challenge has been made by the original plaintiffs-petitioners to the order of the Joint District Judge, Ahmedabad (Rural) dated 11-7-1997 in Civil Misc. Appeal No.20/97 under which the appeal was allowed and the order passed by the Civil Judge (J.D.) below Ex.5 was set aside.

3. Learned first appellate court has found as a fact that the plaintiffs-petitioners are not in possession of the disputed agricultural land. Learned counsel for the plaintiffs-petitioners is unable to successfully challenge this finding of fact. It being a finding of fact cannot be interfered otherwise also by this Court sitting under section 115 of C.P.C., 1908.

4. So this revision application has no merits and the same deserves to be dismissed but the condition which has been imposed by the learned trial court on the defendants-respondents seems to be most unworkable as well as it may cause manifold complications and possibility of further litigations and counter litigations between the parties cannot be overruled.

5. With consensus of the learned counsel for the parties, it is hereby ordered that the defendants-respondents shall deposit every year on 1st of April, Rs.15,000/- in the trial court and in case ultimately the plaintiffs-petitioners succeed in the suit they will be entitled for this amount with accumulated interest. Every year on deposit of this amount same may be invested in long term F.D.R. in a nationalised/scheduled bank initially for a period of five years and subject to renewal thereof pending the disposal of the suit. However, on failure of the suit, the defendants-respondents shall be entitled to withdraw this amount with accumulated interest. Subject to this modification, this civil revision application stands dismissed with no order as to costs. Rule accordingly stands discharged.

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zgs/-